UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,209	04/07/2004	Richard Lunak	DB000975-007	7439

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EXAMINER
NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/820,209	LUNAK ET AL.
	Examiner	Art Unit	
	Kimberly D. Nguyen	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 November 2005*.

2a)☒ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Amendment

1.   Acknowledgment is made of Amendment filed November 16, 2005.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 15-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Frederick et al.

(US 6,112,502; hereinafter "Frederick").

Re claims 15-17, 21-25 and 29-30: Frederick teaches a method including:

inputting information into a handheld device (reading device 542 in fig. 55) from indicia

(358, 364, 366, 370 in fig. 40; "The reading device 348 is preferably a device for reading

machine readable indicia such as bar code" (col. 40, lines 62-63)) on an open shelving system,

the information identifying an item to be restocked to the open shelving system ("Alternatively,

when all the medical items have been removed from the storage location the user may operate

the reading device to read the further indicia adjacent the storage location representative of the

condition that all the medical items in the location have been depleted..." col. 6, lines 53-57; col.

41, lines 29-31) (col. 56, lines 51-58; col. 6, lines 12-67; col. 41, line 44 through col. 42, line 53);

inputting a current quantity of the items to be restocked to the handheld device

corresponding to the input information (col. 6, lines 53-67);

transferring the information and current quantity from the handheld device ("These

transaction messages are sent to other components of the system..." col. 6, lines 63-67) (figs. 40

and 55; col. 56, line 1 through col. 57, line 49);

automatically comparing the current quantity to a par level of the items to be restocked,

for example, Frederick teaches in col. 6, lines 41-67 that

"The storage locations for items that are not tracked to patients are preferably marked to
show a desired level or quantity (a "par value") of medical items that should be kept in the
storage location. If the level of medical items in the location drops and a user observes that it is
below par value, the user may scan the indicia with the reading device. The reading device is
preferably configured to treat the scanning of indicia corresponding to a storage location, absent
previously inputting data related to a user or a patient, as indicative of a quantity condition at
the location which corresponds to the storage location being below par value.

Alternatively, when all the medical items have been removed from the storage location
the user may operate the reading device to read the further indicia adjacent the storage location
representative of the condition that all the medical items in the location have been depleted.
Such a condition is an alternative quantity condition which causes different signals to be
generated by the system from those corresponding the first quantity condition. Transaction
messages comprised of signals are produced by the reading device corresponding to the
different quantity conditions. These transaction messages are sent to other components of the
system, and in the case of messages which indicate that a storage location is below par value or
depleted, are responded to by restocking the storage location with an additional quantity of
medical items."

wherein "the user may scan the indicia with the reading device. The reading device is

preferably configured to treat the scanning of indicia corresponding to a storage location, absent

previously inputting data related to a user or a patient, as indicative of a quantity condition at the

location which corresponds to the storage location being below par value." (col. 6, lines 46-52),

that is the indicia is read by the reading device; then the information, which is read from the

indicia, is processed/compared with the par value stored within the reading-

device/computer/component, which is "automatically comparing the current quantity to a par

level of the items to be restocked" as set forth in the claim; and

generating a restocking package in response to the automatic comparing, for example,

"Transaction messages comprised of signals are produced by the reading device
corresponding to the different quantity conditions. These transaction messages are sent to other
components of the system, and in the case of messages which indicate that a storage location is
below par value or depleted, are responded to by restocking the storage location with an
additional quantity of medical items." (col. 6, lines 60-67; col. 6, lines 41-67).

Re claims 18 and 26: Frederick teaches the transferring by transmitting the information

over a wireless link (col. 45, lines 40-45; col. 8, lines 17-37).

Re claims 19 and 27: Frederick teaches the transferring includes inserting the handheld

device into a docking station (cradle 354 in fig. 40) located proximate to the open shelving

system ("The reading device is eventually again placed in communication with the network 328.

This may be done by returning it to its cradle..." (col. 54, lines 53-56)) (col. 41, lines 1-23; col.

47, lines 1-12).

Re claims 20 and 28: Frederick teaches the method further including selecting

information identifying an item not represented by an indicia (e.g., keyboard, mouse, touch

screen, spoken word recognition, etc (col. 19, lines 28-33)) on the open shelving system and

inputting to the handheld device a current quantity of the item to be stocked in the open shelving

unit (col. 19, lines 20-37; col. 17, lines 21-29; col. 40, lines 16-31).

Response to Arguments

4.   Applicant's arguments filed November 16, 2005 have been fully considered but they are

not persuasive.

In response to applicants' argument that "It is respectfully submitted, however, that such passage from Frederick does not teach an automatic comparing step as recited in the pending claims as currently amended wherein the current quantity of an item at a given location is automatically compared with a par level set for the item. Moreover, Frederick does not teach the step of generating a restocking package, in response to the automatic comparing, when the current quantity of an item is below its par level, as is also recited in the pending claims as currently amended." (page 4, 4th paragraph), the examiner respectfully disagrees and submits that

"the user may scan the indicia with the reading device. The reading device is preferably configured to treat the scanning of indicia corresponding to a storage location, absent previously inputting data related to a user or a patient, as indicative of a quantity condition at the location which corresponds to the storage location being below par value." (col. 6, lines 46-52),

that is the indicia is read by the reading device; then the information, which is read from the indicia, is processed/compared with the par value stored within the reading-device or computer or component, which is "automatically comparing the current quantity to a par level of the items to be restocked" as explained carefully above by the examiner. Accordingly, the examiner respectfully believes that, given its broadest interpretation, Frederick meets the claimed invention.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402.

The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KDN
January 10, 2006

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